

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3537 of 1989

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

- =====
1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

KALABHAI VALABHAI

Versus

AHMEDABAD MUNICIPAL CORPN.

Appearance:

MR TR MISHRA for Petitioners
MR NIKHIL KARIEL for Respondent No. 1
None present for respondent lno.2

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 24/03/2000

ORAL JUDGEMENT

1. Heard learned counsel for the parties. The petitioner has prayed for direction to be issued to the respondent no.1 - Ahmedabad Municipal Corporation, Ahmedabad city for declaring and holding that the

petitioners are the employees of this Corporation. Further prayer has been made for direction to respondent no.1 to pay the wages and other fringe benefits to the petitioners as if they are the employees of the Municipal Corporation. It is to be stated that the petitioner has not prayed for any relief whatsoever against the respondent no.2.

2. The petitioners, as per their own case, are Safai Kamdar - daily wagers working with the respondent no.2. Except the certificate of the President of the respondent no.2 which has been given after Notification of the State Government to extend the limits of the Ahmedabad Municipal Corporation, Ahmedabad to certain parts of the area of Nikol Nagar Panchayat, Nikol, no other materials have been produced to show and establish that they are lawfully appointed as permanent employees of the respondent no.2. Be that as it may, it is not in dispute that the total area of Nikol Nagar Panchayat, Nikol is not covered under the Government Notification. Only part of the area of this Nagar Panchayat now falls under the extended area of the Ahmedabad Municipal Corporation. All the employees of the respondent no.2 by this extension of the limits of the area of the Ahmedabad Municipal Corporation, looking to the facts of this case do not become the employee of the Corporation. The reply to the Special Civil Application is there and some of the employees have only been absorbed by the Corporation. The reliance placed on the order of this Court of 12th July, 1987 made in Special Civil Application No. 3642 of 1986 is hardly of any help to the petitioners. That case has been decided on what facts is not given out. Otherwise also, each case has to be decided on its own facts. The averments made by the respondent no.1 in the reply affidavit have not been controverted by the petitioners by filing rejoinder. Even otherwise, no direction can be given by this Court to the Corporation in the facts of this case for absorbing daily wagers employees of the respondent no.2. This petition is wholly misconceived and same is dismissed. Rule is discharged. No order as to costs.

(S.K.Keshote,J)

(Vipul)

